

**MINUTES
MEETING OF THE BOARD OF DIRECTORS
OF THE INDIANAPOLIS DEPARTMENT OF WATERWORKS**

DATE: MARCH 5, 2002 (Tuesday)

Meeting was called to order by Chairperson John Mutz, at 5:05 p.m. in the cafeteria of the Indianapolis Water Company, 1220 Waterway Boulevard, Indianapolis, Indiana.

The following Board members were in attendance at the meeting: Jack Bayt, Carlton Curry, Barbara Howard, S. Michael Hudson, Alan Kimbell, John Mutz, and Samuel L. Odle.

I. Opening Remarks of the Chairperson and Approval of Board Minutes

The Board members were greeted by Chairperson Mutz and then the Board proceeded immediately to approving the Board Minutes from February 22, 2002, and then to the second item on the Agenda (*See Exhibit A*).

Chairperson Mutz requested that the Board members review the Board Minutes from the February 22, 2002, meeting of the Board of Directors of the Indianapolis Department of Waterworks.

Mr. Curry moved that the Board Minutes be approved. Ms. Howard seconded the motion, and a vote was taken. The Board unanimously approved the Board Minutes. Chairperson Mutz signed the Official Minutes from the February 22, 2002 Board meeting.

II. Public Hearing on the Appropriation of the Bond Proceeds

Chairperson Mutz called to order the Public Hearing on the appropriation of the bond proceeds. Chairperson Mutz explained the purpose of the Public Hearing and requested that Mr. Robert Elrod, Counsel for the City-County Council, highlight the process involved in the appropriation of the bond proceeds.

Chairperson Mutz called on members of the public to comment. No members of the public made comments.

Chairperson Mutz concluded the Public Hearing.

III. Public Hearing on Award of Public-Private Agreement to Operate the Waterworks

Chairperson Mutz called to order the Public Hearing on the award of the Public-Private Agreement to operate the Waterworks. After a few brief comments by Chairperson Mutz and Mr. Elrod, Secretary-Treasurer Hudson summarized the review process and the recommendation of US Filter Operating Services, Inc. (*See Exhibit B*).

Secretary-Treasurer Hudson and members of the Review Team presented a Power Point presentation relating to the review process and the recommendation of the Review Team. (*See Exhibit C*).

Chairperson Mutz called on United Water to make a presentation to the Board. Chairperson Mutz limited the presentations to fifteen (15) minutes for each Offeror. United Water presented a Power Point presentation to the Board (*See Exhibit D* for written material provided to the Board by United Water). United Water included the following items in the list of values of the United Water Proposal:

- * Cost (United Water proposal is 17% lower cost than US Filter);
- * Incentive Issue;
- * Technical Approach;
- * Transition & Employees;
- * Customer Service;
- * Local Commitment;
- * Experience & Qualifications; and,
- * Contract Revisions.

Questions by the Board members included the following:

- * Mr. Kimbell asked whether United Water considered Mayor Bart Peterson's letter dated July 18, 2001. United Water responded that the letter was considered in their proposal.
- * Mr. Bayt and Vice-Chairperson Odle asked whether United Water's proposal matched the current benefits of the IWC employees. United Water responded that they matched the current plan.
- * Vice-Chairperson Odle questioned the fee comparison and whether

the fee would be 15% higher if United Water earned 100% of the incentive bonus. United Water indicated that the fee would not be 15% higher.

- * Ms. Howard questioned whether United Water was committed to retiree health benefits. United Water responded yes.
- * Secretary-Treasurer Hudson asked why the commitment was not in the proposal. United Water indicated that the commitment was in the proposal.
- * Ms. Howard questioned the proposed plan for the retirees. United Water indicated that the proposed plan replicated the current plan.
- * Chairperson Mutz questioned the pension plan and whether the plan was currently underfunded. United Water responded that they included the cost of making the fund properly funded in their base fee and that they factored the cost over the twenty (20) years.
- * Mr. Kimbell questioned the consequence of the estimated growth not occurring. United Water responded that they escalated the fee to capture the growth.

Chairperson Mutz thanked United Water for their presentation.

Chairperson Mutz called on US Filter Operating Service, Inc. to make a presentation to the Board. US Filter highlighted the following key elements ("US Filter") of their proposal:

- * Service Fee;
- * Water Quality;
- * Community Involvement;
- * Transition of Employees; and,
- * Management Team.

Questions by the Board members included the following:

- * Mr. Kimbell asked whether US Filter considered Mayor Bart Peterson's letter dated July 18, 2001. US Filter responded that the company did not initially know about the letter, but later were made aware of the letter.

- * Mr. Kimbell questioned the benefit plan in the US Filter proposal. US Filter responded that they have been successful in negotiating benefits.
- * Mr. Curry questioned the consequences of the taste/odor problem continuing after the \$17 million is spent. US Filter responded that the company will meet the performance measures and will only receive their fee if the performance measures are met.
- * Vice-Chairperson Odle questioned the larger fee of US Filter. US Filter indicated that the fees are comparable.
- * Mr. Kimbell asked for an explanation of the growth increment fee negotiation. US Filter responded that they only committed to five years based on the overriding issue of the tax code (Rev. Proc. 97-13).
- * Mr. Curry questioned US Filter's ability to negotiate a more attractive plan than a Defined Benefit Plan. US Filter responded that the company has successfully negotiated Defined Benefit Plans out of union contracts.
- * Chairperson Mutz asked for examples. US Filter identified the Teamsters and the Steelworkers.
- * Ms. Howard asked if the \$3000 payment would be annual or a one (1) time benefit. US Filter indicated that the payment would be a one (1) time transitional bonus.

Chairperson Mutz thanked US Filter for their presentation.

Chairperson Mutz called on members of the public to comment. The following members of the public made public statements at the hearing (*See Exhibit E*):

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| * Glen Pratt | * Tony Cassulo |
| * Jackie Greenwood | * Robin Green |
| * Lettie Oliver | * Ruby Sing |
| * Tom Bruns | * Bill Shrewsberry |
| * Jesse Moore | * Linda Wallace |
| * Lilly Cassel | * Sandy Fields |
| * Security Dads | * Dan Mathis |
| * Tim Harris | * Ron Nelson |
| * Marilyn Pitsulo | * Frank Verkamp |
| * Chris Burton | * Victor Evans |
| * Amy Richard | * John Thompson |

Chairperson Mutz thanked the members of the public for their comments. Chairperson Mutz concluded the Public Hearing.

Questions by the Board members included the following:

Taste/Odor and Environmental Issues

- * Mr. Bayt questioned how United Water could correct the Taste/Odor problem without spending any money. George Pendygraft and Mark Jacob responded that the Taste/Odor problem is NOT an easy fix and funds will need to be spent in correcting the problem.
- * Vice-Chairperson Odle questioned whether the \$800,000 commitment by United Water was contained in their contract. Mr. Jacob indicated that the commitment was not identified in the United Water contract.
- * Mr. Kimbell indicated that the \$800,000 commitment by United Water to the Taste/Odor issue has been made.
- * Mr. Curry questioned the incentive portion of the contracts and which company provided a more observable measure. Mr. Jacob indicated that US Filter provided a more comprehensive plan for measuring the company's performance (specific criteria). Mr. Pendygraft agreed with Mr. Jacob's comments.
- * Secretary-Treasurer Hudson asked for further clarification of other environmental issues. Mr. Jacob and Mr. Pendygraft provided an explanation.
- * Mr. Kimbell addressed the Taste/Odor issue and various compounds found in the Indianapolis water. Mr. Pendygraft indicated that trace levels of the two highlighted compounds were found in the Indianapolis water system.
- * Mr. Curry questioned why the Request for Proposal did not establish a certain level for technical standards. Mr. Pendygraft indicated that the Review Team wanted information from the offerors.
- * Vice-Chairperson Odle questioned the copper sulphate issue and the relationship to the Taste/Odor issue. Mr. Pendygraft indicated that US Filter proposed a localized application.

Qualifications

Brenda Horn and Mark Jacob presented a brief explanation of the reference checks that were performed. Ms. Horn stated that the responses regarding US Filter were uniform.

Ms. Horn stated that the responses regarding United Water were not uniform in regard to certain contracts and United Water's performance.

- * Mr. Kimbell indicated that a full explanation of the problems of United Water could be found in the Board packets.
- * Mr. Bayt and Vice-Chairperson Odle asked for the number of contracts investigated. Ms. Horn indicated that the Review Team checked two (2) (Tampa and Fulton County) for US Filter and four (4) (Gary, Indianapolis, Atlanta, and Milwaukee) for United Water. Ms. Horn indicated that more contracts were checked regarding United Water given that problems were found initially.

Barbara Lawrence, Director of the Department of Public Works, provided remarks regarding United Water and the management contract with the City of Indianapolis (*See Exhibit F for her comments*).

- * Mr. Bayt asked for the number of incidents. Ms. Lawrence indicated that the overall view is that the relationship has been broken with the City of Indianapolis.

Cost

Mr. Clifford summarized the cost comparison between United Water and US Filter (*See Exhibit G Management Scoring Sheet and Cost Comparison*).

- * Mr. Kimbell questioned the fixed fee and US Filter's estimate of growth for only five years and then open for negotiation. Mr. Clifford responded to Mr. Kimbell's concerns.
- * Mr. Kimbell addressed the fixed fee and highlighted his own analysis.
- * Mr. Curry questioned whether there were sufficient safeguards in the contract regarding customer service and whether US Filter will be able to later divest of UDC. Mr. Clifford responded that a definitive agreement does not currently exist.
- * Secretary-Treasurer Hudson questioned whether the 3% growth estimate was embedded in the proposed fixed fee. Mr. Clifford responded yes.
- * Secretary-Treasurer Hudson questioned the five year re-negotiation. Mr. Clifford responded to his concerns.
- * Vice-Chairperson Odle highlighted the 3% growth estimate embedded in the proposed fixed fees of the offerors.

- * Chairperson Mutz asked for statistics on actual growth. Mr. Clifford responded that the Department of Waterworks has grown 2.6% in regard to the number of customers.

Employee Wages / Salary / Benefits

Mr. Clifford briefly addressed the July 18, 2001 letter from Mayor Bart Peterson and the fact that the benefits offered by US Filter are comparable to the current benefits of IWC. Mr. Clifford noted that US Filter does not offer a Defined Benefit Plan. US Filter offers a Defined Contribution Plan. Mr. Clifford further noted that US Filter offered to allow employees to vest through December 31, 2003 (Post-retirement health benefits).

- * Vice-Chairperson Odle asked for clarification on the vesting of employees by 2003. Mr. Clifford highlighted the provisions of the plan.
- * Secretary-Treasurer Hudson questioned the current funding status of the retirement plan. Mr. Clifford indicated that the plan is slightly underfunded.
- * Chairperson Mutz questioned the consequences of the failure of US Filter to negotiate a benefit plan. Mr. Clifford indicated that the manager must maintain good labor relations.
- * Secretary-Treasurer Hudson asked for quantification on the cost. Mr. Clifford responded \$30 million (present value cost).
- * Vice-Chairperson Odle questioned whether the costs were embedded in current rates. Mr. Clifford responded that \$2.1 million are built into the current rates (current underfunding).
- * Secretary-Treasurer Hudson questioned the current practice in the market regarding employee benefits. Mr. Clifford highlighted layoffs and a private company's need to have returns for the stockholders.
- * Mr. Curry asked for the amount of time spent on employee benefit issues by the Review Team. Mr. Clifford indicated that they spent much time on benefit issues.
- * Ms. Howard questioned whether the group can think "out of the box" and be creative in developing a plan. Mr. Clifford agreed.

Community Involvement

- * Vice-Chairperson Odle questioned US Filter's community involvement in

Indiana. Mr. Jacob indicated that both offerors are active in the community.

- * Secretary-Treasurer Hudson asked that the Review Team experts highlight the Community Involvement components. Mr. Pendygraft highlighted the various components.

General Questions by Board Members

- * Vice-Chairperson Odle questioned the financial solvency of the offerors. Mr. Clifford highlighted the letters of credit. Financial consultants from Crowe Chizek explained the current concerns regarding the parent company of US Filter and the company's change in accounting regarding "goodwill". The financial consultants highlighted the financial review process performed by the Review Team.
- * Mr. Kimbell questioned the analysis of the financial statements given that each of the offerors have various layers to their organization. The financial consultants responded to Mr. Kimbell's concerns.

General Comments by Mr. Kimbell

- * Mr. Kimbell briefly addressed his concerns regarding the management of the Department of Waterworks and highlighted the following items:
 1. Mr. Kimbell highlighted his support for United Water.
 2. Mr. Kimbell highlighted the notion that each of the two companies can handle the project.
 3. Mr. Kimbell highlighted his concerns regarding the potential sale of UDC.
 4. Mr. Kimbell highlighted the inability to sell UDC until the asset is owned and the various statutory requirements regarding bidding.
 5. Mr. Kimbell highlighted his concerns regarding capital expenditures and his concerns regarding the US Filter proposal and its list of partners.

Vice-Chairperson Odle questioned why United Water was on the short list given the numerous concerns expressed by Barbara Lawrence. Mr. Chinn indicated that United Water scored well in other categories.

Chairperson Mutz called on Mr. Chinn to explain Resolution 11, 2002 (*See Exhibit H*).

After a brief discussion regarding Resolution No. 11, 2002 and questions by Chairperson Mutz, Mr. Kimbell, Mr. Curry and Vice-Chairperson Odle regarding UDC, Mr. Kimbell moved that the Resolution be amended to remove all UDC references. Vice-Chairperson Odle seconded the motion, and a vote was taken. The Board approved and adopted the amendment to Resolution 11, 2002 (Mr. Curry voted “no” to the amendment).

Secretary-Treasurer Hudson and Mr. Chinn further explained the logic relating to the sale of UDC.

Secretary-Treasurer Hudson read the amended Resolution 11, 2002, to the Board members. After a brief discussion, Mr. Curry moved that Resolution 11, 2002 be approved and adopted by the Board. Vice-Chairperson Odle seconded the motion, and a vote was taken. The Board approved and adopted Resolution 11, 2002 (US Filter Operating Services, Inc. approved as manager of the Department of Waterworks).

Vote:	Yes	(Mutz, Bayt, Curry, Odle)
	No	(Howard, Kimbell)

IV. Adoption of Bond Resolution / Board Policies

Chairperson Mutz called on Brenda Horn and Robert Clifford to present the Bond Resolution and the Board Policies to the Board members (*See Exhibit I*).

Mr. Clifford introduced the Financing Team to the Board members.

Ms. Horn briefly highlighted the Bond Resolution and the Board Policies to the Board. After a brief discussion and questions from Chairperson Mutz regarding section 11.09 of the Bond Resolution and regarding the water fund, Vice-Chairperson Odle moved that Resolution 12, 2002, be approved and adopted by the Board. Mr. Chinn noted that Counsel has received technical amendments. Mr. Bayt seconded the motion, and a vote was taken. Mr. Curry abstained from voting. The Board approved and adopted the Bond Resolution.

V. Resolution Regarding Assumption of Prior Economic Development Refunding Revenue Bonds

Chairperson Mutz called on Theodore Esping to present Resolution 13, 2002 to the Board. Mr. Esping explained the assumption issue and the provisions of the Resolution.

Questions from the Board members included the following:

- * Vice-Chairperson Odle questioned whether the assumption issue is merely an attempt to save money. Mr. Esping responded yes.

- * Chairperson Mutz questioned whether there is a realistic chance that the assumption issue be finalized. Mr. Esping responded yes.

After a brief discussion, Mr. Curry moved that Resolution 13, 2002, be approved and adopted by the Board. Mr. Kimbell seconded the motion, and a vote was taken. The Board approved and adopted Resolution 13, 2002.

VI. Other Business and Adjournment

Mr. Curry highlighted the current *functional* issues at the Water company.

Mr. Chinn and Ms. Janet Charles updated the Board regarding the City of Carmel negotiations and the outreach transactions.

There being no other business before the Board, the Board concluded the meeting at 10:31 p.m.

Approved this _____ day of _____, 2002.

John Mutz,
Chairperson

Attest:

S. Michael Hudson,
Secretary-Treasurer

